No. 18-18

IN THE
Supreme Court of the United States

MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION,
Petitioner,

v.

AMERICAN HUMANIST ASSOCIATION, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

BRIEF *AMICUS CURIAE* OF THE FOUNDATION FOR MORAL LAW IN SUPPORT OF PETITIONER

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INTEREST OF AMICUS CURIAE[1]

The Foundation for Moral Law ("the Foundation") is a national public-interest organization based in Montgomery, Alabama, dedicated to the defense of religious liberty and the strict interpretation of the Constitution as written and intended by its Framers.

The Foundation has an interest in this case because it believes that the panel opinion departs from a proper understanding of the Establishment Clause.

SUMMARY OF ARGUMENT

Believing that the Constitution should be interpreted strictly according to its plain meaning as understood by its Framers, the Foundation fully endorses the legal and constitutional arguments of the petitioners. Rather than duplicating those arguments, the Foundation will point out that the Establishment Clause does not forbid recognition of the foundational role of Christianity in our history, laws, and culture; that the Fourth Circuit neglected the special significance of the cross for military personnel as reflected in military cemeteries and medals; and that the design of the National Mall was consciously based on a Latin cross.

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[1] All parties received notice on July 31, 2018 of intent to file this brief and have consented to its filing. No party or party's counsel authored this brief in whole or in part, or contributed money that was intended to fund its preparation or submission; and no person other than the *amicus curiae*, its members or its counsel, contributed money that was intended to fund the preparation or submission of this brief.

General Douglas MacArthur in his Farewell Address at West Point explained succinctly the connection between the military and the cross. "The soldier," he said, "above all other men, is required to practice the greatest act of religious training—sacrifice."[2] The Foundation urges the Court to consider that the memory of the fallen commemorated by the Bladensburg cross deserves our utmost respect. The removal of the symbol of their sacrifice would be a sacrilege.

ARGUMENT

I. The Constitution does not forbid recognition of Christianity's foundational influence upon American history, law, and culture.

Sir William Blackstone (1723-1780), whose *Commentaries on the Laws of England* may have sold more copies in America than in England,[3] recognized that all valid human law must rest upon the Revealed Law, which is "to be found only in the Holy Scriptures,"[4] and on the Law of Nature, which is

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[2] General Douglas MacArthur, *Farewell Address: Duty, Honor, Country*, U.S. Military Academy, West Point, New York (May 12, 1962), https://goo.gl/MC3Nw6

[3] Edmund Burke, *Speech on Conciliation with America* (1775), *quoted in* William D. Bader, *Some Thoughts on Blackstone, Precedent, and Originalism*, 19 Vermont L. Rev. 5, 5 (1994).

[4] Sir William Blackstone, *Commentaries on the Laws of England* (Philadelphia: Robert Bell, 1772) Intro. 2:41-42.

"expressly declared so to be by God himself"[5] and which is understandable by human reason.

> Upon these two foundations, the law of nature and the law of revelation depend all human laws; that is to say, no human laws should be suffered to contradict these.[6]

Chancellor James Kent (1763-1847) described his experience reading the fourth volume of Blackstone's *Commentaries* at age 16: "[T]he work inspired me with awe, and I fondly determined to be a lawyer."[7] Kent's four-volume *Commentaries on American Law* earned him the accolade of "the American Blackstone."[8] Like Blackstone, Kent (speaking of the law of nations) recognized that the law "deriv[ed] much of its force and dignity" from "the sanction of Divine revelation."[9] On behalf of the New York Supreme Court of Judicature, then-Chief Justice Kent, upholding a blasphemy conviction, quoted English common-law cases for the proposition that "christianity was parcel of the law, and to cast contumelious reproaches upon it, tended to weaken the foundation of moral obligation, and the efficacy of oaths." The decision further held "that whatever strikes at the root of christianity, tends manifestly to

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[5] *Id.* Intro. 2:42.

[6] *Id.*

[7] Letter from James Kent to Thomas Washington (Oct. 6, 1828), *quoted in* John H. Langbein, *Chancellor Kent and the History of Legal Literature*, 93 Columbia L. Rev. 547, 552 (1993).

[8] Daniel J. Hulsebosch, *An Empire of Law: Chancellor Kent and the Revolution in Books in the Early Republic*, 60 Ala. L. Rev. 377, 380 (2009).

[9] 1 James Kent, *Commentaries on American Law* *2 (Oliver Wendell Holmes, Jr., ed., 1873).

the dissolution of civil government." *People v. Ruggles*, 8 Johns. R. 290 (Sup. Ct. N.Y. 1811).

Speaking for a unanimous Court, Justice David Brewer, quoting Chancellor Kent's *Ruggles* decision along with a host of other evidence of America's Christian foundations, concluded that "[t]hese, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation." *Church of the Holy Trinity v. United States*, 143 U.S. 457, 471 (1892). *See* Appendix A for an extended quotation from the *Holy Trinity* opinion.

Likewise, Supreme Court Justice and Harvard Professor Joseph Story (1779-1845), wrote in his influential *Commentaries on the Constitution of the United States* (1833):

> Probably at the time of the adoption of the Constitution, and of the amendment to it now under consideration, the general, if not the universal sentiment was, that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private right of conscience and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation.

....

> The real object of the First Amendment was not to countenance, much less to advance, Mohammedanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to a hierarchy the exclusive patronage of the national government.[10]

Acknowledgement of the formative role of Christianity upon American laws and institutions is entirely consistent with the Establishment Clause of the First Amendment. In 1853, when the constitutionality of the congressional chaplaincy was questioned, the Senate Judiciary Committee undertook an exhaustive study of the background and meaning of the Establishment Clause. The Committee concluded in part:

> The clause speaks of "an establishment of religion." What is meant by that expression? *It referred, without doubt, to that establishment which existed in the mother country, its meaning is to be ascertained by ascertaining what that establishment was. It was the connection with the state of a particular religious society, by its endowment, at the public expense, in exclusion of, or in preference to, any other, by giving to its members exclusive political rights, and by compelling*

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[10] 3 Joseph Story, *Commentaries on the Constitution of the United States* §§ 1868, 1871 (1833).

the attendance of those who rejected its communion upon its worship, or religious observances. These three particulars constituted that union of church and state of which our ancestors were so justly jealous, and against which they so wisely and carefully provided.

....

Our fathers were true lovers of liberty, and utterly opposed to any constraint upon the rights of conscience. They intended, by this amendment, to prohibit "an establishment of religion" such as the English church presented, or anything like it. But they had no fear or jealousy of religion itself, nor did they wish to see us an irreligious people; they did not intend to prohibit a just expression of religious devotion by the legislators of the nation, even in their public character as legislators; they did not intend to send our armies and navies forth to do battle for their country without any national recognition of that God on whom success or failure depends; they did not intend to spread over all the public authorities and the whole public action of the nation the dead and revolting spectacle of atheistical apathy. Not so had the battles of the revolution been fought, and the deliberations of the revolutionary Congress conducted. On the contrary, all had been done with a continual appeal to the Supreme Ruler of the world, and an

> habitual reliance upon His protection of the righteous cause which they commended to His care.[11]

The same year the House Judiciary Committee conducted a similar study and came to the same conclusion.

> What is an establishment of religion? It must have a creed, defining what a man must believe; it must have rites and ordinances, which believers must observe; it must have ministers of defined qualifications, to teach the doctrines and administer the rites; it must have tests for the submissive and penalties for the non-conformist. There never was an established religion without all these.
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> ....
>
> At the adoption of the Constitution, we believe every State—certainly ten of the thirteen—provided as regularly for the support of the Church as for the support of the government: one, Virginia, had the system of tithes. Down to the Revolution, every colony did sustain religion in some form. It was deemed peculiarly proper that the religion of liberty should be upheld by a free people. Had the people, during the Revolution, had a suspicion of any attempt

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[11] Senate Judiciary Committee, S. Rep. No. 32-376, at 1, 4 (1853) (emphasis added).

> to war against Christianity, that Revolution would have been strangled in its cradle. At the time of the adoption of the Constitution and the amendments, the universal sentiment was that Christianity should be encouraged, not any one sect. Any attempt to level and discard all religion would have been viewed with universal indignation.
>
> ....
>
> But we beg leave to rescue ourselves from the imputation of asserting that religion is not needed to the safety of civil society. It must be considered as the foundation on which the whole structure rests. Laws will not have permanence or power without the sanction of religious sentiment—without a firm belief that there is a Power above us that will reward our virtues and punish our vices. In this age there can be no substitute for Christianity; that, in its general principles, is the great conservative element on which we must rely for the purity and permanence of free institutions. That was the religion of the founders of the republic, and they expected it to remain the religion of their descendents.[12]

These statements by Sir William Blackstone, Chancellor Kent, the Senate and House Judiciary

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[12] House Judiciary Committee, *Chaplains in Congress and in the Army and Navy*, H. R. Rep. No. 33-124, at 1, 6, 8-9 (1854).

Committees, Justice Brewer, and others are entirely consistent with the Establishment Clause of the First Amendment. Justice Brewer, the author of the *Holy Trinity* decision, understood that Christianity was not the official religion of the United States. In his 1905 book, *The United States a Christian Nation*, he clarified:

> But in what sense can [the United States] be called a Christian nation? Not in the sense that Christianity is the established religion or the people are compelled in any manner to support it. ... Neither is it Christian in the sense that all its citizens are either in fact or in name Christians. On the contrary, all religions have free scope within its borders. Numbers of our people profess other religions, and many reject all. Nor is it Christian in the sense that a profession of Christianity is a condition of holding office or otherwise engaging in public service, or essential to recognition either politically or socially. In fact, the government as a legal organization is independent of all religions.
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> Nevertheless, we constantly speak of this republic as a Christian nation—in fact, as the leading Christian nation of the world. The popular use of the term certainly has significance.[13]

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[13] David J. Brewer, *The United States a Christian Nation* 12 (1905).

II. The Fourth Circuit neglected the special significance of the cross for military personnel.

A. The Fourth Circuit's limited depiction of the crosses at Arlington National Cemetery is misleading.

The Fourth Circuit's appendix shows the cross as a small symbol on gravestones in Arlington National Cemetery.[14] Although most of the graves have a simple cross[15] carved into the headstone, the cemetery also contains much larger crosses. These include the Argonne Cross, erected "in memory of our men in France 1917-1918" (13 feet tall), the "Cross of Sacrifice" behind the Tomb of the Unknowns, the Canadian Cross of Sacrifice (24 feet tall), the Spanish-American War Nurses Monument (maltese cross), and others.[16] The panel, perhaps uncomfortable with the idea that its opinion logically would require the removal of prominent crosses at the National Cemetery, struggles to avoid this conclusion. *Am. Humanist Ass'n v. Md.-Nat'l Capital*

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[14] *Am. Humanist Ass'n v. Md.-Nat'l Capital Park & Planning Comm'n*, 874 F.3d 195, 211 n. 17 (4th Cir. 2017). *See* https://pbs.twimg.com/media/CUa2t63VEAEoIfE.jpg to view the headstone images.

[15] These include Latin, Celtic, Aaronic, Armenian, Episcopal, Greek, Lutheran, Presbyterian, Russian Orthodox, Serbian Orthodox, United Methodist, Christian and Missionary Alliance crosses and others. U.S. Department of Veterans Affairs, National Cemetery Administration, *Available Emblems of Belief for Placement on Government Headstones and Markers*, https://goo.gl/akjTQJ.

[16] James Edward Peters, *Arlington National Cemetery: Shrine to America's Heroes* (2008).

Park & Planning Comm'n, 874 F.3d 195, 211 & nn. 16 & 17 (4th Cir. 2017).

According to the official website of the American Battle Monuments Commission which created and maintains the overseas military cemeteries:

> Each grave site for the World War I and World War II cemeteries is marked by a headstone of pristine white marble. Headstones of those of the Jewish faith are tapered marble shafts surmounted by a Star of David. Stylized marble Latin crosses mark all others.[17]

Although these cemeteries are located overseas, the land is given in perpetuity for the use of the United States Government and is operated by the American Battle Monuments Commission. Accordingly, the Establishment Clause is no less applicable to these cemeteries than to those within the United States.

Nor are crosses unique to American military cemeteries. To promote uniformity in British Commonwealth military cemeteries, the Imperial War Graves Commission (now the Commonwealth War Graves Commission) determined that all but the smallest cemetery would have one prominent cross, to be called the Cross of Sacrifice.[18]

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[17] American Battle Monuments Commission, *History*, https://www.abmc.gov/about-us/history.

[18] Jacqueline Hucker, ***Monuments of the First and Second World Wars***, The Canadian Encyclopedia, https://goo.gl/Kmeg7P

On June 12, 1925 Canadian Prime Minister William Lyon Mackenzie King requested that a Cross of Sacrifice be erected at Arlington National Cemetery in Virginia to memorialize Americans who died in World War I while serving in the Canadian armed forces. President Calvin Coolidge approved the request, and the Cross of Sacrifice was dedicated at Arlington on Armistice Day 1927.[19]

B. Military medals demonstrate that the cross is closely associated with the military.

Except for the Congressional Medal of Honor, the highest award a member of the U.S. Army can receive is the Distinguished Service Cross—a gold cross with an eagle on the front that is given "for extreme gallantry and risk of life in actual combat with an armed enemy force."[20] The Distinguished Service Cross is the equivalent of the United States Air Force Cross, the Navy Cross (for Navy and Marine personnel), and the Coast Guard Cross.[21] The cross emblem recognizes the willingness to risk one's lives to save the lives of others or to advance the military mission. This willingness to sacrifice is commonly set forth in the citation that accompanies the medal. The cross, a fitting symbol of such heroism

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[19] Canadian Cross of Sacrifice - Arlington, VA, Waymarking.com, https://goo.gl/grVbzF

[20] *Distinguished Service Cross Law and Legal Definition*, USLegal.com, https://goo.gl/awjWby

[21] U.S. Dep't of Defense, *Awards for Military Valor*, https://goo.gl/1R5Nh7. A member of the Coast Guard may receive the Navy Cross when operating under Navy command. For the Coast Guard Cross, *see* 14 U.S.C. § 491a.

and self-sacrifice, is used by other selfless organizations like the International Committee of the Red Cross[22] and many local fire departments[23].

The military medals of other countries also display a cross. The British Commonwealth nations award the Victoria Cross[24] and the George Cross.[25] Germany awards the Bundeswehr Cross of Honor for Valor for "[a]n act of gallantry in the face of exceptional danger to life and limb while demonstrating staying power and serenity in order to fulfill the military mission in an ethically sound way."[26] Military medals in Russia were frequently in the shape of crosses (the St. Catherine Medal, the St. Alexander Nevsky medal, the St. George Medal, the St. Vladimir Medal, and others).[27] Cross-shaped medals were eliminated and suppressed by the Communist regime after 1918, but since 1991 the Russian Federation has resumed issuing cross-shaped medals to its military heroes.[28]

France awards its bravest soldiers the Croix de Guerre (Cross of War),[29] Sweden the Grand Cross of

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[22] *Red Cross Logo*, Logodesignlove.com, https://goo.gl/FtsJbP

[23] *A Piece of Fire Service History: The Maltese cross*, Fireengineering.com, https://goo.gl/xm7ojw

[24] *The History of the Victoria Cross*, Historic-UK.com, https://goo.gl/jhy62k

[25] *George Cross*, Britannica.com, https://goo.gl/bkXvjA

[26] *Bundesweher-Cross-of-Honour-for-Valour*, Revolvy.com, https://goo.gl/gwLF6A

[27] Robert Werlich, *Russian Orders, Decorations and Medals* (1981), depicted at CollectRussia.com, https://goo.gl/4cbDcS

[28] *The Russian Federation: Order of St George*, Medals.org.uk, https://goo.gl/TfvXKY

[29] *Croix de Guerre*, Britannica.com, https://goo.gl/UtJQNp

the Order of the Sword,[30] Norway the King Haakon VII Freedom Cross (aka Cross of Liberty),[31] and Poland the Order of the Military Cross and the Cross of Merit with Swords (Gold, Silver, and Bronze).[32] Other military forces throughout the Western world award similar cross-shaped medals.

The reason is self-evident. As General Douglas MacArthur said in his Farewell Address at West Point: "The soldier, above all other men, is required to practice the greatest act of religious training—sacrifice."[33] The military cross appropriately recognizes that the sacrifice of the soldier for others on the battlefield is in some sense a reflection of the sacrifice of Jesus for others on the cross.

III. The National Mall is based on a grid of a Latin cross.

Based primarily on the 1791 design of Major Pierre Charles L'Enfant that was approved by President Washington, the National Mall is built in the shape of a Latin cross. A 1902 Senate Park Commission Report stated:

> Regarding the [Washington] Monument as the center, the Capitol as the base, and the White House as the extremity of

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[30] *Sweden: Knight of the Grand Cross of the Order of the Sword*, Medals.org.uk, https://goo.gl/mZu4TX

[31] *Kingdom of Norway: King Haakon VII's Cross of Liberty*, Medals.org.uk https://goo.gl/K1YYPK

[32] The President of Poland, *Orders and decorations*, https://goo.gl/PexPBk

[33] *Farewell Address*, *supra* note 2.

> one arm of a Latin cross, we have at the head of the composition on the banks of the Potomac a memorial site of the greatest possible dignity, with a second and only less commanding site at the extremity of the second arm.[34]

If Congress can expressly reference the Latin cross as the basis for the plan for the National Mall, the City of Bladensburg can erect a Latin cross as a memorial to American veterans. Or must we now plow under the National Mall?

IV. The Court should respect the memory of deceased veterans and the rights and sensibilities of their families and descendants.

The Fourth Circuit ignored all of the evidence cited above and simply held that the cross is exclusively a Christian symbol and the Latin cross is the preeminent symbol of Christianity. *See Am. Humanist Ass'n*, 874 F.3d at 206-07 (citations omitted).[35]

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[34] Senate Committee on the District of Columbia, S. Rep. No. 57-166 (1902), at 2.

[35] These statements are factually incorrect. Christians at various times and places have used many forms of the cross, including the Celtic cross, the Maltese cross, the Jerusalem cross, the St. Andrews cross, the Crucifix, and many others. *See Cross: religious symbol*, https://www.britannica.com/topic/cross-religious-symbol. Christians are not in agreement as to the shape of the cross upon which Jesus died; 7 Gerhard Kittel, *Theological Dictionary of the New Testament* 572 ("Stauros") (1971).

Utterly missing from the Fourth Circuit's analysis, however, is consideration for the memory of the deceased veterans and the rights and sensibilities of their families and descendants.

A memorial monument, whether a private gravestone or a public memorial, is a work of art protected by the Free Speech Clause and in some instances by the Free Exercise Clause of the First Amendment. Many persons, planning for death, invest careful thought, effort, and expense to design a headstone for themselves or their loved ones. Those plans may include the precise words to be engraved, the type of stone including its shape and dimensions, and the artwork to appear on the stone such as crosses, angels, or floral designs. Many, for religious or other reasons, wish to have a cross on their gravestones. They would consider removal of that cross to be nothing less than grave desecration.

The Court should respect the memory of those for whom this monument was dedicated over 90 years ago as well as the rights and sensibilities of those who planned it, contributed to support it, and dedicated it to their loved ones. Such consideration is utterly absent from the Fourth Circuit's analysis. As

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The Fourth Circuit's flawed reasoning coupled with factual errors leads to the absurd conclusion that if the Bladensburg Cross is replaced with a Celtic cross of similar size, no Establishment Clause problem would arise. As Justice Rehnquist famously observed: "[N]o amount of repetition of historical errors in judicial opinions can make the errors true." *Wallace v. Jaffree*, 472 U.S. 38, 107 (1985) (Rehnquist, J., dissenting).

this Court has recognized, "[A] Latin cross is not merely a reaffirmation of Christian beliefs. It is a symbol often used to honor and respect those whose heroic acts, noble contributions, and patient striving help secure an honored place in history for this Nation and its people." *Salazar v. Buono*, 559 U.S. 700, 721 (2010) (plurality opinion).

CONCLUSION

Ironically, the cross, which has inspired Americans since the planting of the Jamestown Cross in 1607,[36] is now the most censored symbol in America.

This Court should grant certiorari and protect the Bladensburg Cross as an exemplar of America's Christian heritage and a memorial to the Prince George's County soldiers who died in World War I.

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[36] George Percy, *Jamestown: 1607, The First Months*, Nationalhumanitiescenter.org, https://goo.gl/xXbnC7

APPENDIX A

Church of the Holy Trinity v. United States
143 U.S. 457, 465-71 (1892)

[N]o purpose of action against religion can be imputed to any legislation, state or national, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation. The commission to Christopher Columbus, prior to his sail westward, is from "Ferdinand and Isabella, by the grace of God, king and queen of Castile," etc., and recites that "it is hoped that by God's assistance some of the continents and islands in the ocean will be discovered," etc. The first colonial grant, that made to Sir Walter Raleigh in 1584, was from "Elizabeth, by the grace of God, of England, Fraunce and Ireland, queene, defender of the faith," etc.; and the grant authorizing him to enact statutes of the government of the proposed colony provided that "they be not against the true Christian faith nowe professed in the Church of England." The first charter of Virginia, granted by King James I in 1606, after reciting the application of certain parties for a charter, commenced the grant in these words: "We, greatly commending, and graciously accepting of, their Desires for the Furtherance of so noble a Work, which may, by the Providence of Almighty God, hereafter tend to the Glory of his Divine Majesty, in propagating of Christian Religion to such People, as yet live in Darkness and miserable Ignorance of the true Knowledge and Worship of God, and may in time bring the Infidels and Savages, living in those parts, to human Civility, and to a settled and quiet

Government; DO, by these our Letters-Patents, graciously accept of, and agree to, their humble and well-intended Desires."

Language of similar import may be found in the subsequent charters of that colony, from the same king, in 1609 and 1611; and the same is true of the various charters granted to the other colonies. In language more or less emphatic is the establishment of the Christian religion declared to be one of the purposes of the grant. The celebrated compact made by the pilgrims in the Mayflower, 1620, recites: "Having undertaken for the Glory of God, and Advancement of the Christian Faith, and the Honour of our King and Country, a Voyage to plant the first Colony in the northern Parts of Virginia; Do by these Presents, solemnly and mutually, in the Presence of God and one another, covenant and combine ourselves together into a civil Body Politick, for our better Ordering and Preservation, and Furtherance of the Ends aforesaid."

The fundamental orders of Connecticut, under which a provisional government was instituted in 1638-39, commence with this declaration: "Forasmuch as it hath pleased the Allmighty God by the wise disposition of his diuyne pruidence so to Order and dispose of things that we the Inhabitants and Residents of Windsor, Hartford, and Wethersfield are now cohabiting and dwelling in and vppon the River of Conectecotte and the Lands thereunto adioyneing; And well knowing where a people are gathered togather the word of God requires that to mayntayne the peace and vnion of such a people there should be an orderly and decent

Gouerment established according to God, to order and dispose of the affayres of the people at all seasons as occation shall require; doe therefore assotiate and conioyne our selues to be as one Publike State or Comonwelth; and doe, for our selues and our Successors and such as shall be adioyned to vs att any tyme hereafter, enter into Combination and Confederation togather, to mayntayne and presearue the liberty and purity of the gospell of our Lord Jesus wch we now prfesse, as also the disciplyne of the Churches, wch according to the truth of the said gospell is now practised amongst vs."

In the charter of privileges granted by William Penn to the province of Pennsylvania, in 1701, it is recited: "Because no People can be truly happy, though under the greatest Enjoyment of Civil Liberties, if abridged of the Freedom of their Consciences, as to their Religious Profession and Worship; And Almighty God being the only Lord of Conscience, Father of Lights and Spirits; and the Author as well as Object of all divine Knowledge, Faith, and Worship, who only doth enlighten the Minds, and persuade and convince the Understandings of People, I do hereby grant and declare," etc.

....

If we examine the constitutions of the various states, we find in them a constant recognition of religious obligations. Every constitution of every one of the 44 states contains language which, either directly or by clear implication, recognizes a profound reverence for religion, and an assumption that its

influence in all human affairs is essential to the well-being of the community. This recognition may be in the preamble, such as is found in the constitution of Illinois, 1870: "We, the people of the state of Illinois, grateful to Almighty God for the civil, political, and religious liberty which He hath so long permitted us to enjoy, and looking to Him for a blessing upon our endeavors to secure and transmit the same unimpaired to succeeding generations," etc.

....

Or by article 22 of the constitution of Delaware, (1776,) which required all officers, besides an oath of allegiance, to make and subscribe the following declaration: "I, A. B., do profess faith in God the Father, and in Jesus Christ His only Son, and in the Holy Ghost, one God, blessed for evermore; and I do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration."

....

There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons: they are organic utterances; they speak the voice of the entire people. While because of a general recognition of this truth the question has seldom been presented to the courts, yet we find that in *Updegraph v. Com.*, 11 Serg. & R. 394, 400, it was decided that, "Christianity, general Christianity, is, and always has been, a part of the common law of Pennsylvania;

... not Christianity with an established church and tithes and spiritual courts, but Christianity with liberty of conscience to all men." ... And in the famous case of *Vidal v. Girard's Ex'rs*, 2 How. 127, 198, this court, while sustaining the will of Mr. Girard, with its provision for the creation of a college into which no minister should be permitted to enter, observed: "It is also said, and truly, that the Christian religion is a part of the common law of Pennsylvania."

If we pass beyond these matters to a view of American life, as expressed by its laws, its business, its customs, and its society, we find everywhere a clear recognition of the same truth. Among other matters note the following: The form of oath universally prevailing, concluding with an appeal to the Almighty; the custom of opening sessions of all deliberative bodies and most conventions with prayer; the prefatory words of all wills, "In the name of God, amen;" the laws respecting the observance of the Sabbath, with the general cessation of all secular business, and the closing of courts, legislatures, and other similar public assemblies on that day; the churches and church organizations which abound in every city, town, and hamlet; the multitude of charitable organizations existing everywhere under Christian auspices; the gigantic missionary associations, with general support, and aiming to establish Christian missions in every quarter of the globe. These, and many other matters which might be noticed, add a volume of unofficial declarations to the mass of organic utterances that this is a Christian nation.